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5 Attorneys for Plaintiff The Dulac Family Trust

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

10
11 In Re:) Chapter 7
12 Lillian Sikanovski Dulac aka Lila Dulac) Bankruptcy Case No. 8:18-bk-12967-ES
13 aka Lillian Sikanovski,)
14 Debtors.) Adv. No.
15 _____)
16 Bertrand H. Dulac and Georgette C. Dulac,) **COMPLAINT TO DETERMINE
17 Trustees of The Dulac Family Trust dated) VALIDITY OF CERTAIN NOTES AND
January 13, 1998,) DEEDS OF TRUST AND TO PERFECT
18 Plaintiff,) SECURED LIENS
19 vs.)
20 Lillian Sikanovski and Ronald H. Dulac,)
21 Defendants.)
22 _____)**

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24 Plaintiff states as follows:
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I. PARTIES AND JURISDICTION

1. This is an adversary proceeding in bankruptcy brought by Plaintiff Bertrand H. Dulac and Georgette C. Dulac, Trustees of The Dulac Family Trust (Trust) pursuant to 11 U.S.C. Sections 502 and 506.

2. The Debtor filed her Chapter 13 Bankruptcy Petition on August 13, 2018, her case was converted to a case under Chapter 7.

3. Jurisdiction is vested in this proceeding pursuant to 28 U.S.C. 157, 28 U.S.C. 1334, and 11 U.S.C. 502 and 506; this matter is a core proceeding.

II. FIRST CAUSE OF ACTION

4. Trust re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 3, above.

5. The Defendants are husband and wife who have been in the process of divorcing for years. The Debtor is the wife only. The Defendant husband is the son of the Trust trustee's.

6. The Defendants are the owners of those 2 certain real properties commonly known as 17192 Oak Lane, Huntington Beach, CA 92647 and 18566 Santa Andrea Street, Fountain Valley, CA 92708, and as legally described on the attached Exhibit A.

7. On or about October 7, 1999, the Defendants borrowed \$100,000 from the Trust to purchase one of the properties. Attached hereto as Exhibit B is a copy of the cashier's check.

8. On or about June 1, 2000, the Defendants borrowed \$120,000 from the Trust to purchase the other property. Attached hereto as Exhibit C is a copy of the cashier's check.

9. In furtherance of the loans, on August 15, 2000 the Defendants executed and delivered to Trust a note for \$218,990.22. Attached hereto as Exhibit D is a copy of the Note.

10. The Note is secured by 2 Deeds of Trust both dated March 27, 2014 which were recorded on March 28, 2014, Instrument number 2014000117669 (for the Fountain Valley property) and 2014000117670 (for the Huntington Beach property), Orange County Recorder. Both were recorded junior to certain first Deeds of Trust. Attached hereto as Exhibit E are copies of the Deeds of Trust.

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1 11. The Defendants defaulted in their payments to the Trust.

2 12. Thereafter, the Defendants defaulted in their payments to the holder of the first Deed of
3 Trust secured by the Huntington Beach real property. Trust was forced to protect its collateral (its junior
4 Deed of Trust) and the Trust purchased for the then balance due (no discount) the first Deed of Trust, and
5 as such are now the owners thereof. The first Deed of Trust is dated February 26, 2009 and was recorded
6 on March 5, 2009 as Instrument number 2009000103773, Orange County Recorder. Attached hereto as
7 Exhibit F are copies of the Deed of Trust and Equityline Credit Agreement.

8 13. The Note, Equityline Credit Agreement and/or the Deeds of Trust all provide that should
9 a default occur in the payment of any installment when due, or in the performance of any obligation, the
10 whole sum of principal and interest shall immediately become due and payable and shall bear interest.

11 14. In or about 2015 the Defendants defaulted by failing to pay their payment obligations as
12 agreed.

13 15. The Note, Equityline Credit Agreement and Deeds of Trust all provide for the recovery of
14 attorneys' fees and costs in the event of collection or legal action.

15 16. Trust seeks this Court's Order to determine the validity of the Notes and Deeds of Trust
16 and/or to perfect the security interests thereunder.

19 III. PRAYER FOR RELIEF

20 WHEREFORE, TRUST prays that this Court grant the following relief:

21 1. An Order determining that the subject Notes and Deeds of Trust are valid.

22 2. An Order determining that the subject Deeds of Trust are perfected security interest as
23 against the subject real properties.

24 3. An Order awarding the Trust its attorneys' fees and costs incurred herein; and

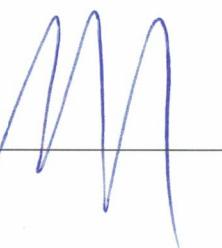
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1 4. An Order awarding the Trust such additional relief as this Court deems just and equitable.
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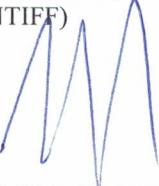
4 **APPEL & APPEL**
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6 DATED: May 2, 2019
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By: 
Ronald Appel, Esq.
Attorneys for Plaintiff
The Dulac Family Trust

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ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS <i>Bertine H Dulac & Georgette C Dulac, Trustees of The Dulac Family Trust dated 1/13/98</i>	DEFENDANTS <i>Lillian Sitanoust & Ronald H Dulac</i>	
ATTORNEYS (Firm Name, Address, and Telephone No.) <i>Ronald Appel Esq. Appel&Appel 2522 Chambers Rd Tustin 92780</i>	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)		
NATURE OF SUIT		
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <ul style="list-style-type: none"> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other 		
FRBP 7001(2) – Validity, Priority or Extent of Lien <ul style="list-style-type: none"> <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property 		
FRBP 7001(3) – Approval of Sale of Property <ul style="list-style-type: none"> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) 		
FRBP 7001(4) – Objection/Revocation of Discharge <ul style="list-style-type: none"> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) 		
FRBP 7001(5) – Revocation of Confirmation <ul style="list-style-type: none"> <input type="checkbox"/> 51-Revocation of confirmation 		
FRBP 7001(6) – Dischargeability <ul style="list-style-type: none"> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny 		
(continued next column)		
FRBP 7001(6) – Dischargeability (continued) <ul style="list-style-type: none"> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other 		
FRBP 7001(7) – Injunctive Relief <ul style="list-style-type: none"> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other 		
FRBP 7001(8) Subordination of Claim or Interest <ul style="list-style-type: none"> <input type="checkbox"/> 81-Subordination of claim or interest 		
FRBP 7001(9) Declaratory Judgment <ul style="list-style-type: none"> <input type="checkbox"/> 91-Declaratory judgment 		
FRBP 7001(10) Determination of Removed Action <ul style="list-style-type: none"> <input type="checkbox"/> 01-Determination of removed claim or cause 		
Other <ul style="list-style-type: none"> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaaa <i>et.seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) 		
<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ <i>219,000</i>
Other Relief Sought <i>Determine Validity of Lien</i>		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <i>Lillian Sitanowski</i>	BANKRUPTCY CASE NO. <i>8:18-Bk-12967-ES</i>	
DISTRICT IN WHICH CASE IS PENDING <i>Central California</i>	DIVISION OFFICE <i>Santa Ana</i>	NAME OF JUDGE <i>E. Smith</i>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE <i>5/2/19</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>Ronald Appel Esq.</i>	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Ronald Appel, Esq. SBN 132023 APPEL & APPEL 2522 Chambers Road Tustin, CA 92780 (714) 573-4090 attorneyrappel@gmail.com <i>Attorney for Plaintiff</i>	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION	
In re: Lillian Sikanovski Dulac aka Lila Dulac aka Lillian Sikanovski, Debtor(s).	CASE NO.: 8:18-bk-12967-ES CHAPTER: 7 ADVERSARY NO.:
Bertrand H. Dulac and Georgette C. Dulac, Trustees of The Dulac Family Trust dated January 13, 1998, Versus Lillian Sikanovski and Ronald H. Dulac, Defendant(s)	SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend against the Complaint, you must file with the court a written pleading in response to the Complaint. You must also serve a copy of your written response on the party shown in the upper left-hand corner of this page. The deadline to file and serve a written response is _____. If you do not timely file and serve the response, the court may enter a judgment by default against you for the relief demanded in the Complaint.

A status conference in the adversary proceeding commenced by the Complaint has been set for:

Hearing Date: _____

Time: _____

Courtroom: _____

Address:

- 255 East Temple Street, Los Angeles, CA 90012
- 3420 Twelfth Street, Riverside, CA 92501
- 411 West Fourth Street, Santa Ana, CA 92701
- 1415 State Street, Santa Barbara, CA 93101
- 21041 Burbank Boulevard, Woodland Hills, CA 91367

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

You must comply with LBR 7016-1, which requires you to file a joint status report and to appear at a status conference. All parties must read and comply with the rule, even if you are representing yourself. You must cooperate with the other parties in the case and file a joint status report with the court and serve it on the appropriate parties at least 14 days before a status conference. A court-approved joint status report form is available on the court's website (LBR form F 7016-1.STATUS.REPORT) with an attachment for additional parties if necessary (LBR form F 7016-1.STATUS.REPORT.ATTACH). If the other parties do not cooperate in filing a joint status report, you still must file with the court a unilateral status report and the accompanying required declaration instead of a joint status report 7 days before the status conference. **The court may fine you or impose other sanctions if you do not file a status report. The court may also fine you or impose other sanctions if you fail to appear at a status conference.**

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

Date of Issuance of Summons and Notice of Status Conference in Adversary Proceeding: _____

By: _____
Deputy Clerk

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy (1) of the foregoing document entitled: **SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]** and (2) the accompanying pleading(s) entitled:

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date

Printed Name

Signature